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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,329	08/01/2003	Paul V. Goode JR.	DEXCOM.026A	4198

68851 7590 05/04/2011

KNOBBE, MARTENS, OLSEN & BEAR, LLP  
2040 MAIN STREET  
FOURTEENTH FLOOR  
IRVINE, CA 92614

EXAMINER
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ART UNIT	PAPER NUMBER
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DATE MAILED: 05/04/2011

Please find below and/or attached an Office communication concerning this application or proceeding.

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10633329	8/1/2003	GOODE ET AL.	DEXCOM.026A

KNOBBE, MARTENS, OLSEN & BEAR, LLP  
2040 MAIN STREET  
FOURTEENTH FLOOR  
IRVINE, CA 92614

**EXAMINER**

MICHAEL D'ANGELO

ART UNIT	PAPER
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3735	20110425
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DATE MAILED:

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**Commissioner for Patents**

Newly submitted claims 271-298 directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: The newly added claims are directed to how a best matched pair is determined (either by comparison of a plurality of points or by using a median/mean value). This inventive concept was not present in the claims that were submitted on 9/30/2009 and is a completely different invention. The claims presented on 9/30/2009 were directed towards how a conversion function was created and modified for clinical acceptability. Therefore the newly added claims are directed towards a new species that is mutually exclusive and would require its own search and consideration.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 271-198 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

2. The amendment filed on 5/27/2010 canceling all claims drawn to the elected invention and presenting only claims drawn to a non-elected invention is non-responsive (MPEP § 821.03). The remaining claims are not readable on the elected invention because the newly added claims 271-298 are directed towards how a best matched pair is determined (either by comparison of a plurality of points or by using a median/mean value), while the previously elected claims 177-200 are directed towards how a conversion function was created and modified for clinical acceptability.

Since the above-mentioned amendment appears to be a bona fide attempt to reply, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS, whichever is longer, from the mailing date of this notice within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD UNDER 37 CFR 1.136(a) ARE AVAILABLE.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL D'ANGELO whose telephone number is (571) 270-7112. The examiner can normally be reached on Monday-Friday 9-5 EST. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor II can be reached on 571-272-4730. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

